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FISCAL IMPACT STATEMENT

LS 6483

BILL NUMBER: HB 1108

NOTE PREPARED: Mar 25, 2013

BILL AMENDED: Mar 25, 2013

SUBJECT: Sentencing Alternatives for Youthful Offenders.

FIRST AUTHOR: Rep. McNamara

FIRST SPONSOR: Sen. M. Young

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. *Sentencing Alternatives for Certain Offenders Younger than 18* – It establishes sentencing alternatives for courts with criminal jurisdiction for: (1) offenders who are less than 18 years of age who have been waived from a juvenile court to a court with criminal jurisdiction and who are charged as adult offenders; and (2) offenders who are less than 18 years of age who do not come under the jurisdiction of a juvenile court because the offenders are charged with certain criminal offenses. It provides that if such an offender is convicted of committing a felony or pleads guilty to committing a felony, a criminal court may: (1) impose an appropriate criminal sentence on the offender; (2) suspend the criminal sentence imposed; (3) order the offender to be placed into the custody of the Department of Correction to be placed in a juvenile facility of the Division of Youth Services, if the department agrees to the placement; and (4) provide that the successful completion of the placement of the offender in the juvenile facility is a condition of the suspended criminal sentence.
- B. *Review Hearing* – It provides that when an offender becomes 18 years of age, the sentencing court must hold a review hearing concerning the offender before the offender becomes 19 years of age. It allows the sentencing court, after the review hearing, to: (1) continue the offender's placement in a juvenile facility until the objectives of the sentence imposed on the offender have been met, if the sentencing court finds that the objectives of the sentence imposed on the offender have not been met; (2) discharge the offender if the sentencing court finds that the objectives of the sentence imposed on the offender have been met; (3) order execution of all or part of the offender's suspended criminal sentence in an adult facility of the Department of Correction; or (4) place the offender in home detention, in a community corrections program, on probation, or in any other appropriate alternative

sentencing program.

- C. *Exceptions to Modification of Sentencing* – It prohibits a court from modifying the sentences of certain serious offenders following a review hearing if the prosecuting attorney objects.

Effective Date: July 1, 2013.

Explanation of State Expenditures: This bill would likely have a minimal effect on either the offender or adult facilities that the Department of Correction (DOC) operates and would depend on the discretion of the adult sentencing court.

The number of offenders younger than 18 who have been committed to DOC adult facilities for new crimes is shown in the following table.

Offenders under 18 Committed to DOC Adult Facilities by Calendar Year				
2008	2009	2010	2011	2012
51	42	39	3	20

The vacancy rate for general population beds in adult facilities was 3% and 33% in juvenile facilities.

Population and Bed Vacancy for Adult and Juvenile Facilities July 1, 2012				
	Beds	Total Population	Vacant General Population Beds	Percent Vacant
Women	2,626	2,444	107	4%
Men	26,271	25,068	784	3%
Total Adult	28,897	27,512	891	3%
Girls	172	41	116	67%
Boys	752	492	185	25%
Total Juvenile	924	533	301	33%

Within the facilities, this bill would permit DOC to place offenders who have been found guilty of committing violent crimes in juvenile facilities instead of adult facilities until they reach 21 years of age, if so ordered by the court. Juvenile facilities are considered more appropriate for most offenders under 17 years of age.

(Revised) *Exceptions to Modification of Sentencing* – If the prosecuting attorney objects, youths who have been transferred to adult court and convicted and sentenced in adult court and who are older than 16 and younger than 18 years of age when they were convicted of certain offenses would be required to be committed to an adult facility. These offenses include:

1. Murder;
2. Attempted murder;
3. Kidnaping;

4. Rape as a Class A felony;
5. Criminal deviate conduct as a Class A felony; and
6. Robbery as a Class A felony.

Background – Offenders under the age of 18 and accused of certain offenses can be treated as either juveniles or adults depending on their age and the severity of the offense.

There are certain situations when the child can be waived to adult court. The following table summarizes these conditions.

Conditions for Waiving a Juvenile To Adult Court	Types of Felonies and Ages
Direct Commitment to Adult Court If ...	The child is older than 16 and the crime is attempted murder, kidnapping, rape, criminal deviate conduct, Class A or B robbery, car jacking, criminal gang activity, possessing handgun without license, dealing in sawed-off shotgun.
Mandatory Waiver If the Prosecuting Attorney Requests it and ...	The child is between 10 and 16 and is accused of murder; the child is older than 14 and is accused of a crime that is a heinous and aggravated felony and part of a pattern of delinquent acts; the child is older than 16 and is accused of committing a Class A or B felony (other than drug-related) or a Class C felony involving involuntary manslaughter or reckless homicide and the best interest of safety and welfare of community is at question; or if the child has been already waived to adult court for a prior offense.
Discretionary Waiver If the Prosecuting Attorney Requests it and ...	The child is older than 16 and is accused of committing a drug-related felony or any felony and the best interest of safety and welfare of community is at question.

Explanation of State Revenues:

Explanation of Local Expenditures: The adult sentencing court could determine whether the offender should be placed in a juvenile facility until they reach 18 years of age, either upon its own motion, a motion of the prosecuting attorney, or a motion by the offender's legal representative. The adult sentencing court would not be mandated to place an offender in a juvenile facility.

Prior to committing an offender to a juvenile facility, the prosecuting attorney would be required to notify the victim of the felony and the sentencing court would be required to receive either a presentence investigation from the probation department or a diagnostic evaluation by DOC staff. The prosecuting attorney could object to assigning offenders convicted of either murder, attempted murder, kidnapping, or Class A rape, criminal deviate conduct or robbery from being assigned to a juvenile facility. DOC must also determine if space is available in its juvenile facilities.

The court would conduct a review hearing before the offender becomes 19 and decide whether the juvenile

should be discharged if the sentencing court finds that objectives of the sentence have been met, whether the juvenile should be committed to a DOC adult facility, whether the juvenile could qualify for community supervision, or whether the juvenile should remain in a juvenile facility until the objectives of the of the sentence imposed on the offender have been met.

Explanation of Local Revenues:

State Agencies Affected: Department of Correction.

Local Agencies Affected: Juvenile courts, adult sentencing court.

Information Sources: Department of Correction Offender Information System.

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